



1FW/AF

WOLFF LAW OFFICES, PLLC - FILING RECORD

Attorney Docket No.: Legare-PAUS0003
Today's Date: July 28, 2008
Attorney: Kevin A. Wolff
Fee Transmitted Herewith: \$00.00
Serial No.: 10/657,189
Filing Date: September 9, 2003
Title: CONTROL METHODS FOR IMPROVED CATALYTIC
CONVERTER EFFICIENCY AND DIAGNOSIS
Inventors: Joseph E. Legare

VIA HAND DELIVERY

THE USPTO STAMP HEREON ACKNOWLEDGES RECEIPT OF:

DOCUMENTS BEING FILED:

- (1) Transmittal Form
- (2) Reinstatement of Appeal from the Examiner (2 Sheets)
- (3) Notice of Appeal from the Examiner (1 Sheet)
- (4) Appeal Brief (47 Sheets)



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/657,189	
	Filing Date	September 9, 2003	
	First Named Inventor	Joseph E. Legare	
	Art Unit	3748	
	Examiner Name	Diem T. Tran	
Total Number of Pages in This Submission	52	Attorney Docket Number	Legare-PAUS0003

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Filing Record; Reinstatement of Appeal
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Wolff Law Offices, PLLC		
Signature	/Kevin Alan Wolff/		
Printed name	Kevin Alan Wolff		
Date	July 28, 2008	Reg. No.	42,233

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	/Kevin Alan Wolff/		
Typed or printed name	Kevin Alan Wolff	Date	July 28, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Application of Joseph E. Legare

Filing Date: September 9, 2003

Serial Number: 10/657,189

Group Art Unit: 3748

For: CONTROL METHODS FOR IMPROVED
CATALYTIC CONVERTER EFFICIENCY
AND DIAGNOSIS

Examiner: Diem T. Tran

**REINSTATEMENT OF APPEAL FROM THE EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madame:

This is a Request for Reinstatement of Appeal from the Non-Final Office Action mailed July 1, 2008 rejecting claims 1-9, 11-16, 18-20, 24-33, 36, 38-40, 43-46, 50, and 51, in view of the Applicant's Appeal Brief filed on January 22, 2008. The original Notice of Appeal was filed on September 17, 2007. The present Appeal is a reinstatement of the Appeal from the Final Office Action mailed May 17, 2007 rejecting claims 1-9, 11-16, 18-20, 24-33, 36, 38-40, 42-46, 50, and 51. The original Notice of Appeal from the May 17, 2007 Final Office Action was filed on September 17, 2007 and the corresponding Appeal Brief was filed on January 22, 2008. Therefore, pursuant to MPEP § 1204.01, the previously paid fees set forth in 37 C.F.R. § 41.20 for filing a Notice of Appeal and filing an Appeal Brief associated with the original appeal are to be applied to this new appeal.

Applicant notes for the record that the Examiner has reopened prosecution on this application merely to note claim 42 had been "overlooked by the examiner" in the May 17, 2007 Final Office Action from which the original appeal was taken. (See Non-Final Office Action page 10). Applicant respectfully submits that this action was improper. The Applicant can not find any provision that enables the Examiner to reopen prosecution simply to note that one more claim overlooked, and not addressed with a rejection, is allowable. Pursuant to MPEP § 1207.04,

an Examiner may “reopen prosecution to enter a *new* ground for rejection after appellant’s brief has been filed.” Although the Non-Final Office Action recites the existence of “new ground(s) of rejection,” (See Non-Final Office Action pages 9-10), the Examiner fails to provide nothing more than the same *old* grounds for rejection including claim 42 in the list of allowed claims, and noted at the end of the Office Action that claim 42 was overlooked. This is inconsistent with MPEP § 1207.04. All of the Examiner’s “new” grounds for rejection in the Non-Final Office Action appear to be identical, verbatim, to the grounds for rejection found in the May 17, 2007 Final Office Action. The Examiner could have waived any grounds for rejecting claim 42 (although none were provided in the May 17, 2007 Final Office Action) in the Examiner’s Answer, thus indicating claim 42 contains allowable material. However the Examiner reopened prosecution of the application, forcing the Applicant to waste time, money, and resources in analyzing the new Office Action and responding repeatedly to *identical* grounds for rejection. The Examiner should be more considerate of the Applicant’s time and the need to timely and efficiently answer the Applicant’ Appeal. Therefore, Applicant fully expects to receive a Patent Term Adjustment with full credit from the time the prosecution of this application was unwarrantedly reopened until the reinstatement of this Appeal pursuant to 37 C.F.R. § 1.704(b)(4), given that the application should have remained in Appeal during these approximately three weeks.

Pursuant to MPEP § 1204.01, a new Notice of Appeal in compliance with 37 C.F.R. § 41.31 and a complete new Appeal Brief in compliance with 37 C.F.R. § 41.37 have been submitted herewith this Reinstatement of Appeal.

Respectfully submitted,



Kevin Alan Wolff
Registration No. 42,233

Wolff Law Offices, PLLC
P.O. Box 9855
Chapel Hill, NC 27515
Telephone: 919-933-9684
FAX: 919-933-9685
Date: July 28, 2008